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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,393	06/13/2001	Ronald A. Katz	6646-114N9	8506

7590

01/18/2002

A2D, L.P.
Attention: Reena Kuyper
9220 Sunset Blvd., Suite 315
Los Angeles, CA 90069

EXAMINER

WOO, STELLA L

ART UNIT

PAPER NUMBER

2643

DATE MAILED: 01/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

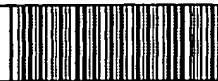
Office Action Summary

Application No.
09/881,393

Applicant(s)
Katz

Examiner
Stella Woo

Art Unit
2643



— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-29 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirements.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.
- ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other:

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DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 22-29 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 61 and 68 of U.S. Patent No. 6,335,965. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims in the continuation are broader than the ones in the patent, *In re Van Ornum and Stang*, 214 USPQ 761, such that broad claims in a continuation application are rejected as obvious double patenting over previously patented narrow claims. For example, claim 22 of the present invention is the same as claim 61 of the patent except that claim 22 does not specify the confirming step as taking place via the voice generator. Therefore, claim 22 is broader than claim 61 of the patent.

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Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 23-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Barger, Jr. et al. (USPN 4,071,698, hereinafter "Barger").

Barger discloses a method for controlling voice-data communications comprising the steps of:

interfacing certain of a plurality of individual callers with an interface unit (callers with push-button telephones are interfaced with data coupling sets 32; col. 6, lines 35-43; col. 9, lines 20-33);

prompting callers to provide responsive signals representative of identification data (audio program repeater prompts the push-button caller to enter his account number; col. 11, lines 18-23; col. 9, lines 40-42);

receiving, comparing and utilizing (caller enters his account number which is compared with stored data to access a customer's record (col. 2, lines 9-12; col. 6, lines 21-26; col. 8, lines 60+; col. 9, lines 40-44; col. 11, lines 37-47);

transferring at least certain of said callers to an attended terminal (callers whose credit cannot be validated or those determined to be freeloaders or those who key in a specified code

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requesting operator assistance are automatically connected with an attended terminal 39; col. 9, lines 42-45; col. 11, lines 34-36; col. 9, lines 38-40); and

displaying at said attended terminal (operator's terminal displays all the data for the customer's call including any historical and credit verification data retrieved from memory; col. 5, lines 29-37; col. 6, lines 3-9, 21-29); and

confirming (operator can verbally confirm with the customer data stored for said caller and displayed at the operator terminal; col. 4, line 57 - col. 5, line 45).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barger in view of Gordon et al. (USPN 4,763,191, hereinafter "Gordon").

Barger discloses a method for controlling voice-data communications comprising the steps of:

interfacing certain of a plurality of individual callers with an interface unit (callers with push-button telephones are interfaced with data coupling sets 32; col. 6, lines 35-43; col. 9, lines 20-33);

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prompting callers to provide responsive signals representative of identification data (audio program repeater prompts the push-button caller to enter his account number; col. 11, lines 18-23; col. 9, lines 40-42);

receiving, comparing and utilizing (caller enters his account number which is compared with stored data to access a customer's record (col. 2, lines 9-12; col. 6, lines 21-26; col. 8, lines 60+; col. 9, lines 40-44; col. 11, lines 37-47);

transferring at least certain of said callers to an attended terminal (callers whose credit cannot be validated or those determined to be freeloaders or those who key in a specified code requesting operator assistance are automatically connected with an attended terminal 39; col. 9, lines 42-45; col. 11, lines 34-36; col. 9, lines 38-40); and

displaying at said attended terminal (operator's terminal displays all the data for the customer's call including any historical and credit verification data retrieved from memory; col. 5, lines 29-37; col. 6, lines 3-9, 21-29); and

confirming (operator can verbally confirm with the customer data stored for said caller and displayed at the operator terminal; col. 4, line 57 - col. 5, line 45).

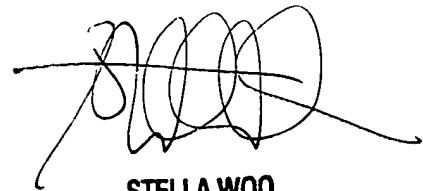
Barger differs from claim 22 in that it does not specify receiving and recording caller number identification signals. However, Gordon teaches the well known use of caller number identification signals in a telephone ordering system for identifying callers and recording the caller number identifications signals for compiling the necessary delivery and charging information (col. 2, lines 48-64) such that it would have been obvious to an artisan of ordinary skill to

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incorporate the use of caller identification signals, as taught by Gordon, within the ordering system of Barger to provide additional identifying data for use in compiling the necessary delivery and charging information.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella Woo whose telephone number is (703) 305-4395.

January 14, 2002



STELLA WOO
PRIMARY EXAMINER